

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

MARGARET MURR, individually
and on behalf of all others
similarly situated, et al.

Plaintiffs,

V.

CAPITAL ONE BANK (USA), N.A.,

Defendant.

1:13cv1091 (LMB/TCB)

ORDER

In reviewing the Proposed Order Preliminarily Approving Class Action Settlement, Conditionally Certifying the Settlement Class, Providing for Notice and Scheduling Order (“Proposed Order”) the Court has found several inconsistencies as well as typographical errors. The inconsistencies include directions in paragraph 24 that a class member seeking exclusion from the settlement class submit a Request for Exclusion to the Claims Administrator, while paragraph 25 indicates that any Request for Exclusion not received by the Clerk of Court by a certain date will not be honored. Paragraph 26 provides that the Claims Administrator will file “a list reflecting all Requests for Exclusion.” To provide consistent directions to those seeking exclusion, it is hereby

ORDERED that these paragraphs be revised to provide that all requests for exclusion be submitted to the Claims Administrator.

Paragraph 27 describes how an objection is to be served. Paragraph 28 describes the contents of an objection. Paragraph 29 has mixed up these paragraphs, incorrectly referring to paragraph 27 when it should refer to paragraph 28 and paragraph 26 when it should refer to paragraph 27.

The Court is also concerned about possible confusion caused by use of both “exclusion” and “opt out” in paragraph 24 of the Proposed Order.¹

Lastly, the Proposed Order contains at least one grammatical error in paragraph 13 where “meet” should be “meets.”


For all these reasons, it is hereby

ORDERED that counsel should carefully review and revise a Proposed Order and included with the memorandum concrete suggestions as to dates for the Final Approval Hearing.²

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 23rd day of December, 2014.

Alexandria, Virginia



Leonie M. Brinkema
United States District Judge

¹ Section 10.01 of the Settlement bears the caption “Opt-Outs and Objections” but the text describes exclusions. The heading for Section 10.02 is “Reporting on Opt- Outs” and then refers to both exclusion and opt-out.

² It is unclear why paragraph 7 of the Proposed Order refers to that hearing as a “settlement hearing,” rather than simply as the “Final Approval Hearing.”